

REMARKS

I. Status of the Application

Claims 2-10 and 11-18 are pending in the application.

Claim 5 stands rejected under 35 U.S.C. 112, first paragraph.

Claims 2, 4, 8 and 12-16 stand rejected under 35 USC 102(b) as being anticipated by UK Publication Number 2298073 to O'Neill (the '073 publication). Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over the '073 publication in view of UK Publication Number 2276444 to McDonald ("McDonald"). Claim 17 stands rejected under 35 U.S.C. 103(a) as being unpatentable over the '073 publication in view of U.S. Patent No. 3,742,189 to Conroy et al. ("Conroy"). Claims 3, 6 and 7 stand rejected under 35 USC 103(a) as being unpatentable over O'Neill in view of UK Publication Number 2372807 to O'Neill (the '807 publication) and in view of Japanese Patent Number 06290762 to Fukue ("Fukue"). Claims 9-11 stand rejected under 35 USC 103(a) is being unpatentable over the '073 publication in view of U.S. Patent No. 2,984,032 to Cornell ("Cornell"). Claim 18 stands rejected under 35 U.S.C. 103(a) as being unpatentable over the '073 publication in view of Cornel and in further view of Conroy.

Support for the above amendments to Claims 2 and 10 and for new Claim 19 can be found, for example, on page 11, lines 21-24, and page 10, lines 15-29 and in Figures 2, 7 and 8.

Applicant requests reconsideration based on the above amendments and the remarks that follow.

II. The Drawings

Formal drawings are being submitted herewith. The formal drawings include reference number "16a" to identify the baffle, which was shown in the original drawings and described in the specification. Accordingly, the addition of reference number "16a" does not add new matter to the application, and Applicant requests that the objections to the drawings be withdrawn.

III. The Section 112 Rejections

Claim 5 has been amended to clarify that the light source is between the additional reflector and the rear reflecting means. Support for the amendments to Claim 5 can be found, for example, in Figure 2, which illustrates that the light source 16 is between the additional reflector 21 and the rear reflecting means 18.

Accordingly, Applicant submits that Claim 5 satisfies the written description requirement and requests that the rejection of Claim 5 under §112 be withdrawn.

IV. The Section 102/103 Rejections

A. Independent Claim 2

Claim 2 recites a flame effect electric fire including:

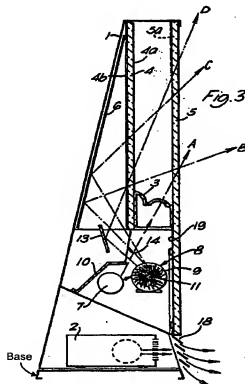
- i) a housing adapted to be mounted on a substantially plane wall;
 - ii) heating means disposed in the housing operative to draw air into the housing, heat the air and expel the heated air; and
 - iii) a flame simulating assembly mounted in the housing and comprising:
 - (a) a light source;
 - (b) a viewing screen capable of diffusing and transmitting light;
 - (c) a rear reflecting means disposed behind the viewing screen;
- and
- (d) means for producing moving beams of light, wherein the light source is disposed below the reflecting means and behind the viewing screen, the means for producing moving beams of light is disposed in front of the light source and below the screen and light from the light source is reflected by the means for producing moving beams of light onto the reflecting means and is reflected by the reflecting means onto the screen to produce a perceptible image viewable on the screen, and wherein the heating means expels air in a generally vertically downward direction through an air expulsion aperture in an underside external panel of the housing.

As noted above, Claim 2 stands rejected under § 102(b) based on the '073 publication. In response to Applicant's paper dated November 11, 2006, the Action states on pages 14-15:

With respect to applicants argument that O'Neill'073 does not teach or suggest a heating means expels air [sic] in a generally vertically downward direction through an underside panel of the housing, O'Neill'073 disclose

[sic] an apparatus for simulating flames. O'Neill'073 explicitly disclose [sic] a fan heater (2) apparatus being on the lower side, bottom side and underside of the upper portion of the main simulating flame apparatus (see Figure 3). In addition, O'Neill'073 disclose [sic] the fan heater (2)/underside external panel (grill 18) combination being in the underside portion of the simulating flame apparatus expelling air generally vertically downwardly [in a] direction through the underside external panel (grill 18) of the housing (1) (see arrows indicating airflow in Figure 3).

However, the '073 publication proposes an apparatus for simulating flame in which a fan heater 2 is configured to expel heated air in a generally horizontal direction through a grill 18 on a side of the apparatus (see Conroy (below)). Therefore, the '073 publication does not disclose an air expulsion aperture in an underside external panel of the housing as recited in Claim 2.



Accordingly, the '073 publication does not disclose all of the limitations of Claim 2 as required by §102.

In addition, the '073 publication teaches away from an air expulsion aperture in an underside external panel of the housing as recited in Claim 2. As shown in Figure 3 and as noted in Applicant's paper of November 11, 2006, the apparatus in the '073 publication rests

on a base (labeled "Base" by Applicant). The clearance between the apparatus and the underlying supporting floor appears to be insufficient for the downward expulsion of the heated air. Modifying the apparatus of the '073 publication so that the fan would expel air through an air expulsion aperture in an underside external panel of the housing would appear to be unsafe because the apparatus rests on the ground.

The features of Claim 2 discussed above are also not taught or suggested by McDonald, Conroy, the '807 publication, Fukue and/ or Cornell.

For at least these reasons, the recitations of Claim 2 are not taught or suggested by the art cited in the Action. Claims 3-9, 12, 14, 15 and 17 depend indirectly or directly from Claim 2 and are patentable over the cited art for at least the reasons discussed above. Accordingly, Applicant requests that the rejections under Sections 102/103 be withdrawn.

In addition, various claims depending from Claim 2 are separately patentable for at least the reasons discussed below.

B. Dependent Claim 9

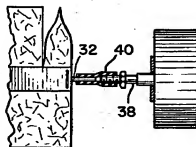
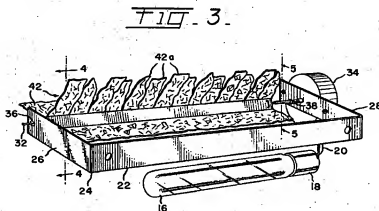
Claim 9 depends indirectly from Claim 2, and is therefore patentable for at least the reasons discussed with respect to Claim 2. In addition, Claim 9 is separately patentable for at least the reasons discussed below.

Claim 9 stands rejected under § 103 as being unpatentable over the '073 publication in view of Cornell. In particular, Claim 9 recites a shaft that

is driveably connected at a first end thereof via a flexible bushing to a drive means operative to rotate the shaft and is releasably retained at a second end thereof in a supporting bracket, the first end of the shaft being configured to be retained by the flexible bushing when the second end is released from the supporting bracket, and the shaft being displaceable from its operative position on release of its second end by flexure of the flexible bushing, thereby to permit access to the light source.

Accordingly, Claim 9 has been amended to clarify that the first end of the shaft is configured to be retained by the flexible bushing when the second end is released from the supporting bracket.

The Action identifies element 40 of Cornell as equivalent to the flexible bushing recited in Claim 10. Cornell states that "the motor shaft 38 is coupled to the driven shaft 32 by a resilient sleeve 40 of rubber or the like, making it an easy matter to disconnect the shaft when desired without the use of any tools." See Cornell col. 2, lines 40-44. Therefore, Cornell does not disclose that the first end of the shaft is configured to be retained by the flexible bushing when the second end is released from the supporting bracket as recited in Claim 9.



As shown in Figures 3 and 5 of Cornell, the resilient sleeve 40 in Cornell is provided to make it easier to disconnect the shaft at the end adjacent the resilient sleeve 40. See Cornell, column 2, lines 40-44. Accordingly, Cornell teaches away from the recitations of Claim 9, in which the first end of the shaft is configured to be retained by the flexible bushing when the second end is released from the supporting bracket.

The recitations of Claim 9 are also not taught or suggested by McDonald, Conroy, the '807 publication, and/or Fukue.

Accordingly, Applicant submits that Claim 9 is separately patentable for at least the reasons discussed above; and respectfully requests an indication of same:

C. Independent Claim 10

Claim 10 recited an apparatus for producing a visual effect for simulating flames including:

- i) a light source;
- ii) a simulated fuel bed;

- iii) a viewing screen mounted about the fuel bed capable of diffusing and transmitting light and comprising a partially reflective front surface whereby an image of the fuel bed may be seen in the viewing screen;
- iv) means for producing moving beams of light, wherein:
 - a) light from the light source is reflected by the means for producing moving beams of light directly and/or indirectly onto the viewing screen to produce a perceptible image viewable on the screen; and
 - b) the means for producing moving beams of light comprises a shaft mounted for rotation about its axis and having a reflective material mounted thereon for reflecting light from the light source, the shaft is driveably connected at a first end thereof via a flexible bushing to a drive means operative to rotate the shaft and is releasably retained at a second end thereof in a supporting bracket, the first end of the shaft being configured to be retained by the flexible bushing when the second end is released from the supporting bracket and the shaft being displaceable from its operative position on release of its second end by flexure of the flexible bushing, thereby to permit access to the light source.

As noted above, Claim 10 was rejected in the Action under § 103 as being obvious over the '073 publication in view of Cornell. Claim 10 recites that the shaft is driveably connected at a first end thereof via a flexible bushing to a drive means operative to rotate the shaft. Claim 10 has been amended to clarify that the first end of the shaft is configured to be retained by the flexible bushing when the second end is released from the supporting bracket.

As discussed with respect to Claim 9, the resilient sleeve 40 in Cornell is provided to make it easier to disconnect the shaft at the end adjacent the resilient sleeve 40. *See* Cornell, column 2, lines 40-44. In contrast, Claim 10 recites that the first end of the shaft is configured to be retained by the flexible bushing when the second end is released from the supporting bracket, and Claim 10 is patentable for substantially the same reasons as discussed with respect to Claim 9, which are not repeated here for brevity.

For at least these reasons, Applicant submits that the recitations of Claim 10 are not taught or suggested by the '073 publication and/or Cornell. Accordingly, Applicant requests that the rejection of Claim 10 under § 103 be withdrawn.

D. Newly Added Dependent Claim 19

Claim 19 depend from Claim 2, and is therefore patentable for least the reasons discussed with respect to Claim 2. In addition, Claim 19 is separately patentable for at least the reasons discussed below.

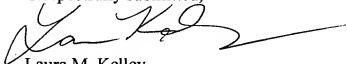
Claim 19 recites "an air intake aperture in the underside external panel of the housing, wherein the heating means is configured to draw air into the housing through the air intake aperture in the underside external panel of the housing and to expel the heated air through the air expulsion aperture in the underside external panel of the housing." The '073 publication does not disclose or render obvious this feature. As noted above, the '073 publication expels air from a side panel and is supported by a base that sits on the floor. In the configuration proposed by the '073 publication, Applicant submits that there would be insufficient air flow to modify the apparatus of the '073 to include an air intake aperture in the underside external panel of the housing as recited in Claim 19. This feature is likewise not disclosed or rendered obvious by McDonald, Conroy, the '807 publication, Fukue and/ or Cornell.

Claim 19 is therefore separately patentable, and Applicant respectfully requests an indication of same.

CONCLUSION

Accordingly, Applicant submits that the present application is in condition for allowance and the same is earnestly solicited. The Examiner is encourage to telephone the undersigned at 919-854-1400 for resolution of any outstanding issues.

Respectfully submitted,



Laura M. Kelley

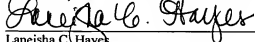
Registration No.: 48,441

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

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Laneisha C. Hayes

Date of Signature: October 17, 2007